NYCLA Task Force on Judicial Budget Cuts
Prepared Testimony of U.S. Attorney Preet Bharara
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Thank you for inviting me to this important public hearing to address the effects that the budget cuts imposed by sequestration will have on the work of my office.

Lately, there is no topic that weighs more heavily on my mind, and something I believe it is critical for the public to understand. So thank you for increasing public awareness through this forum.

I know that elected officials have been taking note of the sequester's adverse impact on the work of the Justice Department and other agencies, including U.S. Senators Amy Klobuchar and Jon Tester at separate Congressional hearings recently. This event will add to a growing public record.

Today, I will be speaking solely on behalf of my own office, the U.S. Attorney's Office for the Southern District of New York, and about our experiences alone, although I am quite certain that other U.S. Attorneys' offices and law enforcement agencies around the country are faced with challenges and choices just as daunting as the ones I will be describing to you.

The bottom line is this: At the end of the day, justice cannot be done on the cheap, and public safety does not come free. And the impact of a prolonged hiring freeze and continuing budget cuts could ultimately work irrevocable harm to the fundamental mission of my office—which is to keep our homeland secure, our streets safe, our markets fair, and our government honest.

Let me start with the tale of the tape, with some raw numbers:

- We currently have 210 AUSAs working in the office between Civil and Criminal Divisions, already almost 20 fewer than we had in 2011, the result of intermittent hiring freezes imposed over the past couple of years, even before sequestration.

- We are operating with a 13% vacancy rate for AUSAs and 26% vacancy rate for staff, the highest rate for staff among all the U.S. Attorneys' offices in the country.

- Sequestration has meant a $5.7 million reduction in my office's budget for the fiscal year 2013, a 10.9% reduction from 2012, and we expect another $776,000 cut on top of that for 2014, resulting in a total two year reduction of 12.4%.

What do these budget cuts mean for us in terms of hiring?

It has meant and continues to mean a complete and indefinite hiring freeze. I am not sure everyone fully understands this, but we now cannot hire any new employees at all, AUSAs or staff, not even to replace departing employees (though we have an extremely limited ability to hire contractors for staff work). And since traditionally, our office has had an attrition rate of about 22 AUSAs a year, perhaps the highest in the country, we will lose more than 10% of our AUSAs every year.

In other words, unless something changes, our office will simply get smaller and smaller every year. We will have no new AUSAs to replace senior ones who leave, and we will have no AUSAs to staff the office's junior units that have traditionally been staffed by new arrivals. By January 2015, a quarter of our office's allotted prosecutor positions will be vacant for lack of funding.

A number of U.S. Attorney's offices around the country have already felt sufficiently under pressure due to the hiring freeze that they have added unpaid Special AUSAs to their ranks. If the freeze continues, all offices—including ours—will have to consider taking such extraordinary and unprecedented measures.

Now, we certainly like to think of ourselves as a band of brothers, but we will not be a happy few if our ranks dwindle that much—and the public will not be happy either.

The irony of the situation is that the evidence overwhelmingly shows that every dollar spent on my office would actually generate more money than it would cost. A lot more. Just as an example, last month we entered into a plea agreement with a hedge fund, SAC Capital, that, once the plea is accepted, will lead to a $1.2 billion payment.

That amount—from one case alone—is 24 times our office's annual budget of about $50 million. And if you look at the total financial penalty of $1.8 billion, including the $616 million penalty to the SEC, that amount would just about cover the entire annual budget for every U.S. Attorneys' office around the country combined.

All from one case, investigated by a small number of prosecutors. And we have a lot of cases like that one. Yet, because of sequestration, we cannot hire a single AUSA, even to replace ones who are leaving. But it is not the lost revenue or the lack of logic of such across-the-board cuts that is most troublesome. Rather, it is the longer term impact they may have on the communities that we serve.

Although the dedicated public servants in my office and offices like mine around the country will do what we must, with the resources we are given, to protect our citizens and enforce the

country's laws, inevitably, important cases will take longer to make and opportunities to pursue potentially fruitful, but labor-intensive, investigations will be foregone.

Those opportunity costs, although perhaps not as readily observable as longer security lines at airports, are potentially far more tragic.

And remember, we do not get to choose much of the work we do. Many of our AUSAs defend the United States day in and day out on regular matters such as tax, social security, bankruptcy and immigration matters. Should we roll over and compromise in our defense of the United States' day-to-day interests to conserve resources?

If the blanket cuts continue, we will be forced, in the not too distant future, to make supremely difficult choices, ones that I believe the public—if they knew about them—would find just as unacceptable as I do.

We are not in absolute crisis today, but make no mistake: we will be.

- Today, I continue to believe that while my people are often outnumbered and outspent, we are not outmatched. But there are limits to how far I can stretch even the most dedicated and hard-working public servants.

- Today, in New York City, while we continue to have a gang problem, we do not have the level of murder and mayhem that so plagues Chicago that its Mayor is practically begging for federal funds and federal help. Do we want tomorrow's New York to look like today's Chicago? I don't think we do.

So, what choices am I supposed to make if things continue this way? Because something has to give.

- Should we start settling civil cases on the cheap because going to trial is too resource intensive?

- Should we start pleading out criminal cases on the cheap for the same reason?

- Should we stop doing the smaller but important cases our junior prosecutors typically handle, because in a few months we will have no more junior prosecutors—like cases that take guns off the street or take child pornographers off the prowl?

- What choices am I supposed to make about which categories of big cases we can and cannot do?

- Should we slow our pursuit of terrorists and drug kingpins who have threatened our country, conspired to kill our citizens and pumped narcotics into our communities, a pursuit that has successfully brought to justice al Qaeda terrorists, international arms traffickers, and cartel bosses?

- Should we scale back our efforts to reduce murders and gun violence through federal prosecutions of violent gangs, just as our efforts have led to a 62% reduction in shootings in Yonkers last year?

- Should we put on hold our public corruption investigations to ensure honest government for the good people of New York, work that has led to the convictions of countless corrupt officials and helped spur a state commission on the endemic problem in Albany?

- Should we moderate our commitment to confronting the potentially existential cyber threat, a commitment that within the past year alone successfully shut down a major on-line currency service used by criminals and the world's largest underground website for drugs and contraband?

- Should we ease up on investigations into financial frauds that led last month to the country's first jury trial verdict holding a large bank responsible for fraudulent mortgage lending practices during the financial crisis, as well as over 75 insider trading convictions over the last few years?

- Should we halt initiatives designed to ensure that people with disabilities are not discriminated against or that our water is pure enough to drink or that our air is clean enough to breathe?

- Should we downsize the most successful criminal asset forfeiture program in the country that added over $3 billion to the country's coffers in 2012 (and we likely add even more in 2013)?

- Of course not. In a sane world, we should have to do none of these things.

And so I hope and pray—as I am sure my fellow U.S. Attorneys and federal law enforcement partners around the country do—to be spared from having to make any of these impossible choices.

But that's where we'll be before too long, unless something changes.